

1 E-filed on 1/3/07

2

3

4

5

6

7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 IN RE CYGNUS TELECOMMUNICATIONS
13 TECHNOLOGY, LLC, PATENT
14 LITIGATION

15 THIS ORDER RELATES TO:
16 All Actions

No. MDL-1423
This Order Applies to All Actions

C-02-00142 RMW
C-02-00145 RMW
C-02-05437 RMW
C-03-03378 RMW
C-03-03594 RMW
C-03-03596 RMW
C-03-04003 RMW
C-04-03001 RMW
C-04-03365 RMW
C-04-04247 RMW
C-04-04359 RMW
C-06-03843 RMW
C-06-04295 RMW
C-06-06479 RMW

21 ORDER DEEMING MOTIONS SUBMITTED
22 ON THE PAPERS & TEMPORARILY
BARRING FURTHER FILING OF MOTIONS

23
24 The court held a hearing on claim construction and several related motions for summary
25 judgment on November 21, 2006 and has not yet issued a ruling. On December 1, 2006, plaintiff
26 Cygnus Telecommunications Technology, LLC filed what it styled a revised motion for summary
27 judgment against defendant United World Telecom, L.C. ("UWT"). UWT and defendant AT&T
28 Corp. filed separate responses, asking the court to strike Cygnus's latest filing. AT&T asked, in the

ORDER DEEMING MOTIONS SUBMITTED ON THE PAPERS & TEMPORARILY BARRING FURTHER FILING OF
MOTIONS—MDL-1423

JAH

1 alternative, for leave to file a response, arguing that Cygnus's motion, although ostensibly directed
2 against only UWT, in reality covered issues common to all defendants.

3 Cygnus's revised motion and the defendants' counter-motions are all deemed submitted on
4 the papers. No hearing will be held. No further filings will be accepted in connection with these
5 motions.

6 In fact, until the court resolves all pending issues related to claim construction, validity of the
7 patents-in-suit, and infringement liability of individual defendants, no party should file any further
8 substantive motions. Permissible filings would be things like a notice of PTO action,¹ notice of a
9 relevant recent decision, scheduling matters involving recently-served defendants,² or stipulations
10 regarding settlement.

11

12

13 DATED: 1/3/07

Ronald M Whyte
RONALD M. WHYTE
United States District Judge

15

16

17

18

19

20

21

22

23

24

25

26

27

28

¹ The court is aware that on December 19, 2006, the PTO issued a final rejection of claims 6 through 11 in the reexamination of U.S. Patent No. 6,035,027.

² On September 20, 2006, the court instructed Cygnus to show cause by December 20, 2006 why any defendant in case no. C-06-04295 remained unserved, but the docket for that case shows no case-specific activity. Similarly, the court expected a joint scheduling proposal from the parties in case no. C-06-06479 some time ago but has not yet received one.

1 **A copy of this order was mailed on _____ to:**

2 **Counsel for Plaintiff:**

3 John P. Sutton
2421 Pierce Street
4 San Francisco, CA 94115-1131

Kieran Patrick Fallon
436 SW 8th Street
Miami, FL 33130-2814

5 **Counsel for Defendants:**

6 Alan M. Weisberg, Steven M. Greenberg
Christopher & Weisberg, P.A.
7 200 E. Las Olas Avenue, Suite 2040
Fort Lauderdale, FL 33301

Matthew Francis McGahren
Baum & McGahren
6171 Crooked Creek Road
Norcross, GA 30092

8 John C. Carey
9 Rodriguez Greenberg & Paul
1395 Brickell Ave, Suite 700
10 Miami, FL 33131

Lori D. Greendorfer, Maxim H. Waldbaum
Schiff Hardin LLP
623 Fifth Avenue, 28th Floor
New York, NY 10022

11 Felice B. Galant, Gregory B. Wood
Fulbright & Jaworski L.L.P.
12 865 South Figueroa Street
Twenty-Ninth Floor
13 Los Angeles, CA 90017

Thomas T. Tamlyn
Yeskoo Hogan & Tamlyn, LLP
535 Fifth Avenue
New York, NY 10017

14 Joseph P. Zammit
Fulbright & Jaworski
15 666 Fifth Avenue
New York, NY 10103

Peter S. Canelias
Law Offices of Peter S. Canelias
420 Lexington Avenue, Suite 2148
New York, NY 10170

16 John F. Mardula, Jon L. Roberts
Roberts Mardula & Wertheim, LLC
17 11800 Sunrise Valley Drive, Suite 1000
Reston, VA 20191-5302

Elizabeth E. Green, R. Scott Shuker
Gronek & Latham, LLP
390 N. Orange Avenue, Suite 600
Orlando, FL 32801

19 Richard B. Sheldon
Mitchell Silberberg & Knupp LLP
20 11377 West Olympic Boulevard
Los Angeles, CA 90064-1683

Gregory J. Nelson
Nelson & Roediger
3333 E Camelback Road, Suite 212
Phoenix, AZ 85018

21 Jeffrey L. Silvestrini, Brian F. Roberts
Cohne Rappaport & Segal
22 P.O. Box 11008
Salt Lake City, UT 84147-0008

Peter Neil Greenfeld
Greenfeld Law Group
3333 E Camelback Road, Suite 212
Phoenix, AZ 85018-2324

24 Raymond J. Etcheverry
Parsons, Behle & Latimer
25 One Utah Center
201 South Main Street,
26 Suite 1800, Post Office Box 45898
Salt Lake City, UT 84145

Matthew McGahren
Baum, McGahren & Chiu, LLC
6171 Crooked Creek Road
Norcross, GA 30092

Courtesy Copy:

Clerk of the Panel on Multidistrict Litigation
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Room G-255, North Lobby
Washington, DC 20002-8004

28 Counsel is responsible for distributing copies of this order to co-counsel, as necessary.

ORDER DEEMING MOTIONS SUBMITTED ON THE PAPERS & TEMPORARILY BARRING FURTHER FILING OF
MOTIONS—MDL-1423

JAH